

IN THE SUPREME COURT OF THE STATE OF DELAWARE

EMMANUEL RODGERS,	§
	§
Defendant Below-	§ No. 371, 2005
Appellant,	§
	§
v.	§ Court Below—Superior Court
	§ of the State of Delaware,
STATE OF DELAWARE,	§ in and for New Castle County
	§ Cr. ID 0409003152
Plaintiff Below-	§
Appellee.	§

Submitted: February 16, 2006

Decided: March 7, 2006

Before **STEELE**, Chief Justice, **JACOBS**, and **RIDGELY**, Justices.

ORDER

This 7th day of March 2006, upon consideration of the appellant's Supreme Court Rule 26(c) brief, his attorney's motion to withdraw, and the State's response thereto, it appears to the Court that:

(1) In May 2005, a Superior Court jury convicted the defendant-appellant, Emmanuel Rodgers (“Rodgers”), of three counts of second degree rape, which were reduced to three counts of fourth degree rape. The Superior Court declared Rodgers to be an habitual offender and sentenced him to 45 years at Level V imprisonment followed by one year of probation. This is Rodgers’s direct appeal.

(2) Rodgers' counsel on appeal has filed a brief and a motion to withdraw pursuant to Rule 26(c). Rodgers' counsel asserts that, based upon a complete and careful examination of the record, there are no arguably appealable issues. By letter, Rodgers' attorney informed him of the provisions of Rule 26(c) and provided Rodgers with a copy of the motion to withdraw and the accompanying brief. Rodgers also was informed of his right to supplement his attorney's presentation. Rodgers has not raised any issues for this Court's consideration. The State has responded to the position taken by Rodgers' counsel and has moved to affirm the Superior Court's judgment.

(3) The standard and scope of review applicable to the consideration of a motion to withdraw and an accompanying brief under Rule 26(c) is twofold: (a) this Court must be satisfied that defense counsel has made a conscientious examination of the record and the law for arguable claims; and (b) this Court must conduct its own review of the record and determine whether the appeal is so totally devoid of at least arguably appealable issues that it can be decided without an adversary presentation.*

* *Penson v. Ohio*, 488 U.S. 75, 83 (1988); *McCoy v. Court of Appeals of Wisconsin*, 486 U.S. 429, 442 (1988); *Anders v. California*, 386 U.S. 738, 744 (1967).

(4) This Court has reviewed the record carefully and has concluded that Rodgers' appeal is wholly without merit and devoid of any arguably appealable issue. We also are satisfied that Rodgers' counsel has made a conscientious effort to examine the record and the law and has properly determined that Rodgers could not raise a meritorious claim in this appeal.

NOW, THEREFORE, IT IS ORDERED that the State's motion to affirm is GRANTED. The judgment of the Superior Court is AFFIRMED. The motion to withdraw is moot.

BY THE COURT:

/s/Henry duPont Ridgely
Justice